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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,745	01/10/2001	John Rozen	11125-017001	8043
26161	7590	12/15/2005	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			BARQADLE, YASIN M	
		ART UNIT	PAPER NUMBER	
		2153		

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/757,745	ROZEN, JOHN	
	Examiner Yasin M. Barqadle	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 14 September 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-3,5-8 and 10-14 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-3,5-8 and 10-14 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

Response to Amendment

Applicant's arguments filed on September 14, 2005 have been considered and are deemed persuasive. However, they are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 6, and 10-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Hasebe et al. (U.S. Patent Number 6,212,570, hereinafter "Hasebe"). Hasebe discloses an information distribution device selection system.

In referring to claims 1 and 10, Hasebe shows,

- Providing said client with a shared address, said shared address being common to a plurality of content servers:

"the system comprising: a plurality of information distribution service communication networks which are physically different but having an identical communication network identifier"

- U.S. Patent No. 6,212,570, col. 4, lines 1-4

- Each of said content servers having a copy of said desired content:

“Namely, it is an information distribution device selection system in which at least two or more information distribution devices 60 for realizing the same information providing are present on the inter-connected communication networks formed by a plurality of communication networks”

- U.S. Patent No. 6,212,570, col. 7, lines 29-33

- Serving said client from an optimal content server selected from said plurality of content servers:

“one information distribution device 60 is selected from a plurality of these information distribution devices 60 that are present, by the user terminal device 10”

- U.S. Patent No. 6,212,570, col. 7, lines 34-36

- Said optimal content server having been selected on the basis of an optimal path from said client to said shared address:

“By the above mechanism for automatic registration of the routing information table, it is possible to realize the selection of a route to the logically closest information distribution device 60 among a group of the information distribution devices 60 which are currently capable of responding to a request destined to the information distribution service communication terminal identifier.”

- U.S. Patent No. 6,212,570, col. 8, line 65 - col. 9, lines 4

In referring to claims 1, 10, and 13, Hasebe shows substantial features of the claimed invention, including:

- At an origin server separate from the content server, receiving a request from a client for desired content (col. 6, lines 17-27 and col. 9, lines 38 to col. 10, line 25);
- Identifying an autonomous system having a plurality of content servers:

"Then, the routing control function can be realized either only within the routing control autonomous system 30 (which indicates own communication network range at a time of exchanging routing information using external routing control means among communication network providers), or as a combination of a plurality of routing control autonomous system 30. " (Hasebe, cot. 7, line 65 - col. 8, line 4)

- Each of the content servers having, a copy of the desired content, and

"Namely, it is an information distribution device selection system in which at least two or more information distribution devices 60 for realizing the same information providing are present on the inter-connected communication networks formed by a plurality of communication networks" (Hasebe, cot. 7, lines 29-33)

- Providing said client with a shared address, said shared address being common to said content servers:

"the system comprising: a plurality of information distribution service communication networks which are physically different but having an identical communication network identifier" (Hasebe, cot. 4, lines 1-4)

- Serving said client from an optimal content server selected from said plurality of content servers:

"one information distribution device 60 is selected from a plurality of these information distribution devices 60 that are present, by the user terminal device 10" (Hasebe, cot. 7, lines 34-36)

- Said optimal content server having been selected on the basis of an optimal path from said client to said shared address:

"By the above mechanism for automatic registration of the routing information table, it is possible to realize the selection of a route to the logically closest information distribution device 60 among a group of the information distribution devices 60 which are currently capable of responding to a request destined to the information distribution service communication terminal identifier. " (Hasebe, col. 8, line 65 - col. 9, lines 4)

In referring to claims 2 and 11, Hasebe shows,

- Identifying an optimal path between said client and said shared address (U.S. Patent No. 6,212,570, col. 8, line 65 - col. 9, lines 4, quoted above)
- Receiving a request from said client to connect to a content server at said shared address and designating a content-server on said optimal path to be said optimal content-server (U.S. Patent No. 6,212,570, col. 8, line 65 - col. 9, lines 4, quoted above)

In referring to claims 3 and 12, Hasebe shows,

- Directing said client to reach said optimal content-server by following said optimal path (U.S. Patent No. 6,212,570, col. 8, line 65 - col. 9, lines 4, quoted above)

In referring to claims 13, Hasebe shows,

- Grouping said plurality of content servers into an autonomous system:

"Then, the routing control function can be realized either only within the routing control autonomous system 30 (which indicates own communication network range at a time of

exchanging routing information using external routing control means among communication network providers), or as a combination of a plurality of routing control autonomous system 30.”

(See fig. 8, col. 7, lines 65 – col. 8, line 4

In referring to claim 6, Hasebe shows,

- An autonomous system including a first content server and a second content server having content in common with said first content server (see fig. 8; col. 7, lines 29-33 and col. 9, lines 38 to col. 10, line 25),
- At an origin server separate from autonomous systems for providing an address to a client in response to a request for content, the address identifying said autonomous system (see fig. 8; col. 6, lines 17-27 and col. 9, lines 38 to col. 10, line 25);

“According to another aspect of the present invention there is provided a local unit constituting an information distribution device selection system for selecting one information distribution device on an inter-connected communication networks formed by a plurality of communication networks, which provides an information in response to a request from a user terminal device or an information distribution relay device” (col. 4, lines 28-35)

- A first router for relaying messages to said first content server and a second router for relaying messages to said second content server:

“a plurality of communication network exchange devices respectively provided in the information distribution service communication networks, each communication network exchange device having a routing control function for inter-connecting a corresponding information distribution service communication network with other information distribution service communication networks”

- U.S. Patent No. 6,212,570, col. 4, lines 11-18

(A network exchange device with a routing control function is, by definition, a router)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 5, 8, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasebe in view of Stevens et al. (TCP/IP illustrated, Volume 1: The Protocols, hereinafter “Stevens”).

In referring to claims 5, 8, and 14, although Hasebe shows substantial features of the claimed invention, including the system of claims 4, 6, and 13, Hasebe does not explicitly show the use of a Border Gateway Protocol (BGP) router. Nonetheless this feature is well known in the art and would have been an obvious type of router to use in the system disclosed by Hasebe as evidenced by Stevens.

In analogous art, Stevens discloses the use of BGP, a protocol used for communication between routers. Stevens shows:

“BGP is an exterior gateway protocol for communication between routers in different autonomous systems. BGP is a replacement for the older EGP that was used on the ARPANET. BGP Version 3 is defined in RFC 1267 [Lougheed and Rekhter 1991].”

- Stevens, TCP/IP illustrated, Volume 1: The Protocols, page 138

“BGP is a distance vector protocol, but unlike RIP (which announces hops to a destination), BGP enumerates the route to each destination (the sequence of AS numbers to the destination). This

removes some of the problems associated with distance-vector protocols. An AS is identified by a 16-bit number.”

- Stevens, *TCP/IP illustrated, Volume 1: The Protocols*, page 139

Given these teachings, a person of ordinary skill in the art would have readily recognized the desirability and advantages of using BPG routers in the system of Hasebe, such as taught by Stevens, in order to implement the content servers as autonomous systems, as desired by the system of Hasebe, and to “remove some of the problems associated with distance-vector protocols.”

Conclusion

The prior made of record and not relied upon is considered pertinent to applicant’s disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Information regarding the status of an application may be obtained form the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either private PAIR or public PAIR system. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YB

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